

REMARKS/ARGUMENTS

The Office Action mailed December 19, 2005 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment to the Claims

Claims 1-28 are now pending. No claims stand allowed.

Claims 1, 9, and 16 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, pages 1-2, paragraphs [0001]-[0002] and [0004], pages 3-4, paragraph [0012], and FIGS. 1-2. The amendment also contains minor changes of a clerical nature. No "new matter" has been added by the amendment.

The text of claims 2-8, 10-15, 17-24 is unchanged, but their meaning is changed because they depend from amended claims.

New claims 25-28 have been added, which also particularly point out and distinctly claim subject matter regarded as the invention. Support for these claims may be found in the specification, pages 3-4, paragraph [0012], and FIG. 2.

The 35 U.S.C. §102 Rejection

Claims 1-24 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Rossmann (U.S. Pat. No. 64,430,409), among which claims 1, 9, and 16 are independent claims. This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). *See also*, M.P.E.P. §2131.

Claim 1 defines a system comprising (a) a computer operably connected to a network, the computer having software configured to track the status of multiple modem units, the software allowing for the production of status check requests to be sent to the multiple modem units, and (b) modem units for portable devices, configured to receive external status check requests from the computer, each of the modem units being associated with a host processor of the respective portable device, the modem unit being configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device, as recited in Claim 1 as amended.

In the Office Action, the Examiner maintains the previous rejections and alleges that the elements of the presently claimed invention are disclosed in Rossmann. In response to the Applicant's arguments, the Examiner specifically alleges as follows:

Rossmann discloses sending a message from a computer, receiving the message at a modem (cell phone) and replying. The applicant argues that the message of Rossmann is not a status message. The term "status" has been given its broadest reasonable interpretation. Furthermore the independent claims do not further limit or define the term "status" message. Claims 22-24 limit the modem status information to one of four possibilities, wherein Rossmann inherently discloses modem unit identification information.

The applicant argues Rossman fails to disclose the client modules (modem units) being configured to reply without being controlled by the host processors. The cell phone/client (modem units) of Rossman has a processor/module for replying to messages. However, these processors are not the host processors. The host processors are incorporated with the servers and the cell phone/client (modem units) reply using their processors not the host processors.

The applicant argues Rossman fails to disclose modem unit identification information. In order for the communication system to work, each unit communicating must inherently have identification information, which may comprise the identity of the source of the message, such that a response to the original message knows where to send the response. Therefore the modem units of Rossman (cell phone/client) inherently have identification information with their messages. (Office Action, page 5)

The Applicant respectfully disagrees for the reasons set forth below.

The Examiner contends that “[t]he term "status" has been given its broadest reasonable interpretation.” However, the claim language was amended by the previous amendment to recites “modem status,” which indicates the status of a “modem” unit of a portable device, not the portable device itself. It should be noted that, as is well understood by those of ordinary skill in the art, “modem” means “modulator-demodulator,” and thus a modem unit is not a main processor in a portable device (such as a cell phone), which controls primary functions of the device.

Furthermore, the claimed modem unit replies the “modem status information” to the computer in response to the external status check request from the computer, as recited in Claim 1 as amended. Rossmann does not disclose or suggest such a specific reply (modem status information) responding to a specific status check request from a computer. It is unreasonable to disregard the claim languages of “modem status,” “status check,” and “reply,” and expand the meaning of the word “status” to encompass any

messages sent from a cell phone (the alleged modem unit) to a server (the alleged computer).

In addition, in the claimed invention, the computer is configured to track the status of modem units, and sends “status check requests” to the modem units as recited in Claim 1 as amended. On the other hand, Rossmann only teaches a conventional client-server system over a two-way data communication network, in which the client module (cell phone) sends a request, and the server (computer) replies in response to the request (see column 3, lines 50-56, column 4, lines 33- 50 thereof). Rossmann does not disclose or teach any request sent from the server to the client. Thus, Rossmann fails to disclose or teach a specific status check request sent from a server (the alleged computer) to a client (the alleged modem unit) as recited in Claim 1.

With respect to the “host processor,” the Examiner misunderstands the claimed invention. As clearly illustrated in FIG. 1 of the present specification, a host processor (40, 42, or 44) is associated with a modem unit (34, 36, or 38), not a server 26. Mobile units (i.e., portable devices), for example, personal digital systems (PDA), portable laptops, and other systems (such as cell phones or other wireless communication systems) have their host processors and modem units (see page 1, paragraph [0001] of the present specification). The independent claims have been amended to clarify the host processor. In Rossmann, the client module (software) must run on a main (“host”) processor, since such a full-client functionality (generating a user interface, associating user selection and the data, transmitting an appropriate resource locator, etc., see column 5, lines 10-15 of

Rossmann) cannot be on a modem unit, if any. In other words, in Rossmann, all of the alleged functions and operations of the cell phone (the alleged modem unit) are executed by the main (host) computer.

On the other hand, in the claimed invention, the modem unit, not the host computer, is configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device, as recited in Claim 1. Accordingly, Rossmann fails to disclose or teach the claimed modem unit.

Claims 9 and 16, as amended, also include substantially the same distinctive features as claim 1.

Accordingly, it is respectfully requested that the rejection of claims based on Rossmann be withdrawn. In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Dependent Claims

Claims 2-22 and 25-26 depend from claim 1, Claims 10-15 and 23 depend from claim 9, Claims 17-21 and 24 depend from claim 16, and thus include the limitations of Claim 1, 9, and 16, respectively. The argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable at least for the same reasons.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion


It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-1698.

Respectfully submitted,
THELEN REID & PRIEST, LLP

Dated: March 13, 2006


Masako Ando
Reg. No. Ltd. Rec. No. L0016

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040